

## MICHIGAN BUSINESS TAX ACT (EXCERPT)

### Act 36 of 2007

#### CHAPTER 5

#### **208.1501 Estimated return and payment.**

Sec. 501. (1) A taxpayer that reasonably expects liability for the tax year to exceed \$800.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year.

(2) For taxpayers on a calendar year basis, the quarterly returns and estimated payments shall be made by April 15, July 15, October 15, and January 15. Taxpayers not on a calendar year basis shall file quarterly returns and make estimated payments on the appropriate due date which in the taxpayer's fiscal year corresponds to the calendar year.

(3) Except as otherwise provided under this subsection, the estimated payment made with each quarterly return of each tax year shall be for the estimated business income tax base and modified gross receipts tax base for the quarter or 25% of the estimated annual liability. The second, third, and fourth estimated payments in each tax year shall include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability. For a taxpayer that calculates and pays estimated payments for federal income tax purposes pursuant to section 6655(e) of the internal revenue code, that taxpayer may use the same methodology as used to calculate the annualized income installment or the adjusted seasonal installment, whichever is used as the basis for the federal estimated payment, to calculate the estimated payments required each quarter under this section. A penalty for underpayment of an estimated tax under this act shall not be assessed for a tax year that ends before December 1, 2009 if the taxpayer paid 75% of the tax due under this act for the tax year.

(4) The interest provided by this act shall not be assessed if any of the following occur:

(a) If the sum of the estimated payments equals at least 85% of the liability and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made.

(b) For the 2009 tax year and each subsequent tax year, if the preceding year's tax liability under this act was \$20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the immediately preceding tax year's tax liability.

(5) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the state treasurer. The form prescribed under this subsection may be combined with any other tax reporting form prescribed by the department.

(6) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less than 12 months, the amounts paid with each return shall be proportional to the number of payments made in the first tax year.

(7) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 505.

(8) If the department considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the department may require filing of the returns and payment of the tax for other than quarterly or annual periods.

(9) A taxpayer that elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, has the same option in filing the estimated and annual returns required by this act.

**History:** 2007, Act 36, Eff. Jan. 1, 2008;—2009, Act 8, Eff. Jan. 1, 2008;—2009, Act 9, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Enacting section 1 of Act 8 of 2009 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for tax years beginning after December 31, 2007."

Enacting section 1 of Act 9 of 2009 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for tax years beginning after December 31, 2007."

**Popular name:** MBT

#### **208.1503 Computation of tax for portion of year.**

Sec. 503. If a taxpayer's tax year to which this act applies ends before December 31, 2008 or if a taxpayer's first tax year is less than 12 months then a taxpayer subject to this act may elect to compute the tax imposed by this act for the portion of that tax year to which this act applies or that first tax year in accordance with 1 of

the following methods:

(a) The tax may be computed as if this act were effective on the first day of the taxpayer's annual accounting period and the amount computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first tax year and the denominator of which is the number of months in the taxpayer's annual accounting period.

(b) The tax may be computed by determining the business income tax base and modified gross receipts tax base in the first tax year in accordance with an accounting method satisfactory to the department that reflects the actual business income tax base and modified gross receipts tax base attributable to the period.

**History:** 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2009, Act 185, Eff. Jan. 1, 2009.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Enacting section 1 of Act 185 of 2009 provides:

"Enacting section 1. This amendatory act is effective for tax years ending after December 31, 2008."

**Popular name:** MBT

#### **208.1505 Annual or final return; date of filing; extension.**

Sec. 505. (1) An annual or final return shall be filed with the department in the form and content prescribed by the department by the last day of the fourth month after the end of the taxpayer's tax year. Any final liability shall be remitted with this return. A taxpayer, other than a taxpayer subject to the tax imposed under chapter 2A or 2B, whose apportioned or allocated gross receipts are less than \$350,000.00 does not need to file a return or pay the tax imposed under this act.

(2) If a taxpayer has apportioned or allocated gross receipts for a tax year of less than 12 months, the amount in subsection (1) shall be multiplied by a fraction, the numerator of which is the number of months in the tax year and the denominator of which is 12.

(3) The department, upon application of the taxpayer and for good cause shown, may extend the date for filing the annual return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension. The treasurer shall require with the application payment of the estimated tax liability unpaid for the tax period covered by the extension.

(4) If a taxpayer is granted an extension of time within which to file the federal income tax return for any tax year, the filing of a copy of the request for extension together with a tentative return and payment of an estimated tax with the department by the due date provided in subsection (1) shall automatically extend the due date for the filing of an annual or final return under this act until the last day of the eighth month following the original due date of the return. Interest at the rate under section 23(2) of 1941 PA 122, MCL 205.23, shall be added to the amount of the tax unpaid for the period of the extension.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

#### **208.1507 Return; filing; true and correct copy; amended return.**

Sec. 507. (1) A taxpayer required to file a return under this act may be required to furnish a true and correct copy of any return or portion of any return filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any alteration in or modification of a federal income tax return that affects its business income tax base or modified gross receipts tax base under this act. The amended return shall be filed within 120 days after the final determination by the internal revenue service.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

#### **208.1509 Information return required by internal revenue code; filing required.**

Sec. 509. (1) At the request of the department, a taxpayer required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in the form and content prescribed to the department.

(2) At the request of the department, a voluntary association, joint venture, partnership, estate, or trust shall file a copy of any tax return or portion of any tax return that was filed under the provisions of the internal revenue code. The department may prescribe alternate forms of returns.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

#### **208.1511 Unitary business group; filing.**

Sec. 511. A unitary business group shall file a combined return that includes each United States person, other than a foreign operating entity, that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person and all transactions between those persons included in the unitary business group shall be eliminated from the business income tax base, modified gross receipts tax base, and the apportionment formula under this act. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 2A or 2B, any business income attributable to that person shall be eliminated from the business income tax base, any modified gross receipts attributable to that person shall be eliminated from the modified gross receipts tax base, and any sales attributable to that person shall be eliminated from the apportionment formula under this act.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

#### **208.1513 Administration of tax; rules; forms; preparation and publication of statistics.**

Sec. 513. (1) The tax imposed by this act shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this act. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of this act apply.

(2) The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this act for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, and the ascertainment, assessment, and collection of the tax imposed under this act.

(4) The tax imposed by this act is in addition to all other taxes for which the taxpayer may be liable.

(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this act that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

#### **208.1515 Distribution to school aid fund; deposit of balance to general fund; reduction; "United States consumer price index" defined.**

Sec. 515. (1) In fiscal year 2007-2008, \$341,000,000.00 of the revenue collected under this act shall be distributed to the school aid fund and the balance shall be deposited into the general fund. Except as otherwise provided in subsection (2), in fiscal year 2008-2009, \$729,000,000.00 of the revenue collected under this act shall be distributed to the school aid fund and the balance shall be deposited into the general fund. Except as otherwise provided in subsection (2), for each fiscal year after the 2008-2009 fiscal year, that amount from the immediately preceding fiscal year, before the reduction under subsection (2), as adjusted by an amount equal to the growth in the United States consumer price index in the immediately preceding fiscal year shall be distributed to the school aid fund and the balance shall be deposited into the general fund.

(2) For each fiscal year after the 2007-2008 fiscal year, the amount distributed to the school aid fund under subsection (1) shall be reduced by the amount distributed to the school aid fund for that fiscal year from the tax collected under section 3f of the use tax act, 1937 PA 94, MCL 205.93f.

(3) As used in this section, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics.

**History:** 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008;—Am. 2009, Act 106, Imd. Eff. Oct. 1, 2009.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

**Popular name:** MBT

### **208.1517 Implementation of act; appropriation; carrying forward unexpended funds.**

Sec. 517. There is appropriated to the department for the 2006-2007 state fiscal year the sum of \$1,000,000.00 to begin implementing the requirements of this act. Any portion of this amount under this section that is not expended in the 2006-2007 state fiscal year shall not lapse to the general fund but shall be carried forward in a work project account that is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a, for the following state fiscal year.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

### **208.1519 Severability of provisions.**

Sec. 519. If a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired determines that any provision of this act that provides a deduction, credit, or exemption with respect to employment, persons, services, investment, or any other activity that is limited only to this state is unconstitutional or applies to employment, persons, services, investment, or any other activity outside of this state, that credit, deduction, or exemption shall be severed and shall not be in effect for any other tax year for which the final order shall apply, and the remaining provisions of this act shall remain in effect.

**History:** 2007, Act 36, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

**Popular name:** MBT

### **208.1601 Refund of excess amounts; deposit into countercyclical budget and economic stabilization fund; disposition of taxpayer's pro rata share; definitions.**

Sec. 601. (1) For the 2008 fiscal year, except as otherwise provided under subsection (4), if total net cash payments from the tax imposed under this act plus any net cash payments from former 1975 PA 228 less any net cash payments made by insurance companies under either act exceed the fiscal year 2008 base, 60% of that excess shall be refunded in the immediately succeeding fiscal year as provided in subsection (5) and the remaining 40% shall be deposited into the countercyclical budget and economic stabilization fund created in section 351 of the management and budget act, 1984 PA 431, MCL 18.1351. To calculate the fiscal year 2008 base, multiply \$2,619,100,000.00 by 1.0075 and then multiply this product by the United States consumer price index for fiscal year 2008 and then divide this product by the United States consumer price index for fiscal year 2007.

(2) For the 2009 fiscal year, except as otherwise provided under subsection (4), if total net cash payments from the tax imposed under this act, excluding any revenue collected pursuant to chapter 2A, exceed the fiscal year 2009 base, 60% of that excess shall be refunded in the immediately succeeding fiscal year as provided in subsection (5) and the remaining 40% shall be deposited into the countercyclical budget and economic stabilization fund created in section 351 of the management and budget act, 1984 PA 431, MCL 18.1351. To calculate the fiscal year 2009 base, multiply \$3,051,500,000.00 by 1.015 and then multiply this product by the United States consumer price index for fiscal year 2009 and then divide this product by the United States consumer price index for fiscal year 2007.

(3) For the 2010 fiscal year and each fiscal year after 2010, except as otherwise provided under subsection (4), if total net cash payments from the tax imposed under this act, excluding any revenue collected pursuant to chapter 2A, exceed the fiscal year base, 60% of that excess shall be refunded in the immediately succeeding fiscal year as provided in subsection (5) and the remaining 40% shall be deposited into the countercyclical budget and economic stabilization fund created in section 351 of the management and budget act, 1984 PA 431, MCL 18.1351. To calculate the fiscal year base, multiply the fiscal year base for the

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immediately preceding fiscal year by 1.0075 and then multiply this product by the United States consumer price index for the fiscal year and divide this product by the United States consumer price index for the immediately preceding fiscal year.

(4) If the amount of the total net cash payments collected from the tax imposed under this act, excluding any revenue collected pursuant to chapter 2A, exceeds the amount described in the applicable subsection by less than \$5,000,000.00, then all of that excess shall be deposited into the countercyclical budget and economic stabilization fund created in section 351 of the management and budget act, 1984 PA 431, MCL 18.1351.

(5) For the 2008 fiscal year, the refund available under subsection (1) shall be applied pro rata to the taxpayers that made positive net cash payments during the fiscal year. The taxpayer's pro rata share shall be the total amount to be refunded under subsection (1) multiplied by a fraction the numerator of which is the positive net payments made by the taxpayer during the fiscal year and the denominator of which is the sum of the positive net cash payments made by all taxpayers during the fiscal year. For each fiscal year after the 2008 fiscal year, the refund available under subsection (2) or (3) shall be applied pro rata to the taxpayers that claimed 1 or more credits under section 403 or 405 during the immediately preceding fiscal year. The taxpayer's pro rata share shall be the total amount to be refunded under subsection (2) or (3) multiplied by a fraction the numerator of which is the credits claimed under sections 403 and 405 by the taxpayer during the immediately preceding fiscal year and the denominator of which is the sum of the credits claimed under sections 403 and 405 by all taxpayers during the immediately preceding fiscal year.

(6) As used in this section:

(a) "Fiscal year" means the state fiscal year that commences October 1 and continues through September 30.

(b) "Net cash payments" for the fiscal year are equal to cash annual and estimated payments made during the fiscal year less refunds paid during the fiscal year. Refunds paid under this section are not used to reduce net cash payments for purposes of calculating refunds paid out under this section.

(c) "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics.

**History:** 2007, Act 36, Eff. Jan. 1, 2008;—Am. 2007, Act 145, Eff. Jan. 1, 2008.

**Compiler's note:** Enacting section 1 of Act 36 of 2007 provides:

"Enacting section 1. This act takes effect January 1, 2008 and applies to all business activity occurring after December 31, 2007."

Enacting section 3 of Act 145 of 2007 provides:

"Enacting section 3. Sections 281 and 451 of the Michigan business tax act, 2007 PA 36, MCL 208.1281 and 208.1451, as added by this amendatory act, and sections 105, 111, 113, 201, 239, 265, 403, 405, 409, 413, 445, 447, 515, and 601 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, 208.1111, 208.1113, 208.1201, 208.1239, 208.1265, 208.1403, 208.1405, 208.1409, 208.1413, 208.1445, 208.1447, 208.1515, and 208.1601, as amended by this amendatory act, take effect January 1, 2008 and apply to all business activity occurring after December 31, 2007."

**Popular name:** MBT